

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

PATTY YOUNG, M.D. d/b/a PREMIER
PLASTIC SURGERY OF TEXAS
Plaintiff,

v.

CUTERA, INC.
Defendant.

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Civil Action No. 4:19-cv-00388

DEFENDANT CUTERA, INC.'S SECOND AMENDED TRIAL EXHIBIT LIST

Pursuant to the Court's docket control order, Defendant Cutera, Inc. ("Defendant") files its Second Amended Trial Exhibit List. At this time, Defendant identifies the following exhibits, which it may use at trial in this matter. At this time, the exhibits which Defendant contemplates introducing at trial include, but are not limited to the following:

JUDGE Robert W. Schroeder III			PLAINTIFF'S ATTORNEY James A. Piki	DEFENDANT'S ATTORNEY Chris M. Knudsen & Madison Dini
TRIAL DATE(S) September 21, 2020			COURT REPORTER Anna Lafrenz	COURTROOM DEPUTY Betty Schroeder
Defendant No.	DATE OFFERED	ADMITTED	DESCRIPTION OF EXHIBITS*	
1			Purchase Agreement CUTERA 000001-02	
2			Purchase Agreement w/ Legible Term	
3			eRelevance Marketing Program CUTERA 000003	
4			MMP Capital Purchase Order CUTERA 000004	
5			MMP Equipment Finance Agreement PPS 0002-0006	
6			Dr. Patty Young FSE Repair Report from 8/03/17 CUTERA 000005-000011	
7			Dr. Patty Young FSE Repair Report from 8/15/17 CUTERA 000012-19	
8			Dr. Patty Young FSE Repair Report from 8/15/18 CUTERA 000020-27	
9			Communications PPS 0009-18, 0044-48, 0074-86, 0121-136, 0161-209 0211-218, 0250-309, 0316-341, 0348-367	
10			Press Releases PPS 0021-22	
11			PowerPoint PPS 0049-73	
12			Patient Invoices PPS 0101-113	
13			truSculpt 3D® Operator Manual, CUTERA 000028-000101	
14			Email Communications, CUTERA 000102-000111	

15	truSculpt 3D® Studies , CUTERA 000112-000132.
16	Training Videos , CUTERA 000133-000139.
17	truSculpt 3D® Quick Reference Guides , CUTERA 000140-141 (4 pages) .
18	truSculpt 3D® Treatment Guidelines (Circumference Reduction & Tissue Heating Treatments) , CUTERA 000142 (31 pages)
19	truSculpt 3D® Treatment Guidelines (2MHz & 1 MHz Treatments) , CUTERA 000143 (36 pages)
20	truSculpt Treatment Guidelines , CUTERA 000150 (10 pages)
21	truSculpt 3D® Marketing & Clinical Bulletins , CUTERA 000144-146;151 (7 pages)
22	truSculpt 3D® Patient Informed Consent Form , CUTERA 000147 (2 pages)
23	truSculpt 3D® Pre & Post Care Recs , CUTERA 000148
24	truSculpt 3D® Patient Treatment Record Form , CUTERA 000149
25	Clinical Training Presentation , CUTERA 000154
26	Training sign-off sheet, welcome email, training certificates and training lists CUTERA 000155-000158
27	May 2017 Treatment Guidelines , CUTERA 000159-000173
28	Sales Presentation , CUTERA 000174-000211
29	FDA Approval Letters , CUTERA 000212-241
30	Before and After Photos and Email , PPS 176-178
31	Patient Consent Forms , PPS 00371, 00381, 00387, 00413, 00428, 00434, 00442, 00453, 00460, 00479, 00493, 00498, 00506, 00518, 00525, 00534, 00439, 00556
32	Plaintiff's Answers to Defendant's Interrogatories
33	Confidential Patient Medical Records , PPS 00368-00564
34	Emails (Tracey, Sarah Brice) , PPS 00074-00086
35	Emails (Tracey, Sarah Brice cont.) , PPS 000305-307
36	Emails (MarChel, Falkenstein) , PPS 0121-0129; 179-197
37	Emails (ext. warranty) , PPS 0130-136
38	Emails (before and after promotion) , PPS 176-178
39	Emails (Add'l Training) , PPS 203-204
40	Emails (Tracey & Renee) , PPS 207-209
41	Emails (Pfister & Tracey re training) , PPS 275-304

Defendant also incorporates herein by reference the Trial Exhibit List for Plaintiff. Defendant expressly reserves any and all objections regarding the admissibility of Plaintiff's exhibits, particularly in regard to any exhibits known but not disclosed. Defendant also reserves any and all objections to the admissibility of exhibits identified in Defendant's Trial Exhibit List, that are withdrawn or removed from Defendant's list. Defendant reserves the right to amend, revise, or supplement this list given that discovery has not yet been completed.

Defendant also reserves the right to introduce evidence at trial of the following:

1. Any documents sought to be introduced at trial by Plaintiff;
2. Any document listed as an exhibit by Plaintiff;
3. Any document required to rebut Plaintiff's allegations;
4. Materials to be used solely for demonstrative purposes; and
5. Statements in literature or treatises that may be called to the attention of an expert witness on cross-examination or relied on by an expert in direct examination.

Defendant anticipates the use of demonstrative aids at trial, including graphs, summaries, enlargements and other demonstrative aids; literature designated in Plaintiff's discovery responses and/or produced by Plaintiff's experts; and summaries of Plaintiff's records.

Defendant further reserves the right to utilize any exhibit to be offered into evidence by counsel for Plaintiff, regardless of whether or not it is listed above.

In addition to the above-listed exhibits, Defendant may utilize all other documents produced in discovery in this case and exhibits attached to any and all depositions taken in this case.

Furthermore, Defendant reserves the right to utilize and/or offer additional exhibits that cannot be reasonably anticipated to be necessary at this time, as Defendant does not bear the burden of proof and will not put on evidence until Plaintiff completes her case-in-chief. Thus, Defendant expressly reserves the right to amend and/or supplement exhibits up until the time of trial and in response to evidence developed during trial, if necessary.

Defendant expressly reserves any and all objections regarding the admissibility of Plaintiff's exhibits, particularly in regard to any exhibits known by Plaintiff but not disclosed.

Defendant also reserves the right to utilize testimony from Plaintiff's retained witnesses from other cases.

Respectfully submitted,

**SERPE, JONES, ANDREWS,
CALLENDER & BELL, PLLC**

By: /s/ A. Madison Dini

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**ATTORNEYS FOR DEFENDANT
CUTERA, INC.**

CERTIFICATE OF SERVICE

This is to certify that on November 20, 2020, a true and correct copy of the foregoing document was served via the Federal Rules of Civil Procedure to all parties of record.

/s/ A. Madison Dini

A. Madison Dini